



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

JEFFERY S. RAIFORD,
Plaintiff,

vs.

GREENVILLE COUNTY ANIMAL
SHELTER,
Defendant.

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CIVIL ACTION NO. 6:09-287-HFF-BHH

ORDER

Plaintiff filed this case seeking compensation for the allegedly wrongful euthanazation of his dog by Defendant. The Magistrate Judge construed the claim as one for relief under 42 U.S.C. § 1983 for alleged violations of Due Process or the Fourth Amendment's prohibition of unreasonable searches and seizures. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the case be dismissed without prejudice and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on February 25, 2009, and Plaintiff filed his objections to the Report on March 3, 2009.

In his objections, Plaintiff basically restates his claim and explains how much he misses his pet. However, Plaintiff neglects to respond to the Magistrate Judge's conclusion that his Complaint fails to state a claim for relief. Although the Court is certainly sympathetic towards Plaintiff for his loss, the Court agrees with the Magistrate Judge that Plaintiff does not have a remedy in federal court. However, this Order does not preclude Plaintiff from filing an action for relief in state court.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Plaintiff's objections, finding them to be without merit, adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that the case be **DISMISSED** *without prejudice* and without issuance and service of process.

IT IS SO ORDERED.

Signed this 3rd day of March, 2009, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within 30 days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.